

CITY OF MUSKEGON
PLANNING COMMISSION
REGULAR MEETING
MINUTES

June 10, 2004

P. Sartorius called the meeting to order at 4:02 p.m., and roll was taken.

MEMBERS PRESENT: T. Harryman, J. Aslakson, S. Warmington, P. Sartorius, T. Johnson, B. Smith, T. Michalski, L. Spataro

MEMBERS ABSENT: B. Mazade, excused.

STAFF PRESENT: B. Lazor, H. Griffith

OTHERS PRESENT: D. Boes, 1903 Marquette; R. Reasonover, 1370 Eastwood; J. Roberson, 318 Wood; M. Reasonover, 312 Jackson; D. McIntosh, 644 Jackson; B. Holmes, 473 Mulder; R. Reasonover Jr, 296 Erickson; K. Martin, 505 Yuba; K. Reasonover, 312 Jackson; F. Williams, 516 Yuba; D. Stewart, 673 Leonard; C. Shepherd, 408 Monroe; S. Walker, 471 Yuba; M. Lyons, 410 Adams.

APPROVAL OF MINUTES

A motion to approve the minutes of the regular meeting of May 13, 2004 was made by S. Warmington, supported by T. Harryman and unanimously approved.

PUBLIC HEARINGS

Hearing; Case 2004-23: Request to amend the existing special use permit for additional parking and new entrance drives at 1903 Marquette. The request also asks to add new parking at 2055 Marquette, by David Boes (Baker College). B. Lazor presented the staff report. In 1996, Baker College was approved for a Special Use Permit for a college in the RM-1 district at the corner of Marquette and Quarterline. Their campus has been in operation at that location since 1997, and some site improvements have been made since that time. Baker College is requesting an amendment to their approved Special Use Permit, to allow for expansion of their parking area and a new drive entrance off of Marquette. The request also asks for review of parking off of Marquette on a different site. The entire campus is shown on the site plan with blow-ups of each individual area for more details.

Area # 1 -- new entrance drives off of Marquette at the Northwest corner of the campus. There are proposed to be two new drives off of Marquette into the campus. The existing one is proposed to be closed off and receded. A new deceleration lane is proposed with a drive of 14' in width. The exit drive is proposed to be 24' in width. This area is full of trees and none of them are on the plan. These will need to be labeled. All trees that are proposed to remain or stay shall be labeled as so. Only those trees in direct line of construction are allowed to be removed.

Existing trees should be fenced off before heavy equipment comes in and damages their root system. A new sign is proposed. The ordinance states that for campuses: one (1) monument or pole sign is permitted per entrance/exit to the campus proper not to exceed thirty-two (32) square feet. This proposed sign appears to meet that criteria. The lighting proposed does not meet ordinance requirements. Lighting fixtures shall be a down-type having one hundred percent (100%) cutoff. The light rays may not be emitted by the installed fixture at an angle above the horizontal plane. The height of the light poles shall not exceed twenty-five (25) feet as measured from the average grade. These poles are proposed to be 30' tall. There are also non-conforming yard lights. Once they are removed from their current location, they are not allowed to be reinstalled because they are not cut-off fixtures. The applicant may need to apply for a variance.

Area #2 – Southwest corner parking lot. The proposal is to add 140 parking spaces to an existing series of parking lots toward the rear of the property. This is a heavily wooded area. All trees that can be saved need to be saved. Only those that need to be removed for the lot shall be removed. All other surrounding the proposed lot shall be protected from heavy equipment. The landscaping appears to meet ordinance requirements in terms of species and number of bump outs. The specific types of trees and bushes need to be labeled. The area between the existing parking and the proposed parking is wide. This area has several large trees in it. These trees should be saved as they were in a previous lot expansion project. If the entire lot needs to be shifted to protect more trees, then that should be done. The trees need to be labeled to remain or to be removed. There is a berm to the rear of the lot. Extending it will be a sufficient buffer between the residential units and this parking area. The setbacks are not labeled. The only setback involved would be the one to the south of the property. Since this is a campus, a real front and rear of the property is not able to be determined by staff. The new parking lines up with existing, so the setback appears to be adequate. The applicant has proposed new lights. These will need to meet ordinance requirements and be labeled. Lighting fixtures shall be a down-type having one hundred percent (100%) cutoff. The light rays may not be emitted by the installed fixture at an angle above the horizontal plane. The height of the light poles shall not exceed twenty-five (25) feet as measured from the average grade.

Area #3 – Parking area at 2055 Marquette. This is a parking area on a lot by itself in the B-2 district; therefore parking would be the principal use of the lot. This is not permitted by the Zoning Ordinance. The applicant would need a variance to be able to put just parking on this lot. If this property were somehow joined to the other baker pieces then the parking may be able to be permitted. Staff does not see what this parking area will be serving. The apartments to the south already have garages and surface parking. This does not appear to be a necessary parking area. Other than the first comment, the parking area meets much of the ordinance requirements. The setbacks are acceptable. There needs to be an average setback of 10' for the front of the property, which is met. The proposed sign meets ordinance standards. The applicant has proposed new lights that appear to meet ordinance standards. These will need to be labeled. Lighting fixtures shall be a down-type having one hundred percent (100%) cutoff. The light rays may not be emitted by the installed fixture at an angle above the horizontal plane. The height of the light poles shall not exceed twenty-five (25) feet as measured from the average grade. The maximum lot coverage is well exceeded in this area. The ordinance requires 1 canopy tree, 2 understory/evergreen, and 2 bushes for each linear feet of frontage. This plan shows no landscaping. The parking area is also over 5,000 square feet. Therefore it

will need bump outs or other landscaping elements to meet ordinance requirements. The DPW has reviewed the site plan and has no outstanding issues with it. The Fire department has reviewed the site plan and has the following comments: "Any fire hydrant relocated shall be approved by the local fire marshal. Hydrant spacing shall meet the requirements of the 2003 International Fire Code appendix C." Staff supplied the commission members with the comments from Engineering. Staff recommends approval of the request with conditions.

B. Smith arrived at 4:11 p.m.

J. Aslakson asked why area 3 was included in this request since it would be something that would need to go before the ZBA. B. Lazor stated that it had come in and he wanted to make the PC members aware of it. Should the applicant decide to proceed with it, they would need to go before the ZBA for approval. D. Boes stated that there were a couple of errors on the plan in regards to the height of the poles. They will go before the ZBA for the parking lot at 2055 Marquette. P. Sartorius asked if the applicant had any issues with staff's proposed conditions. D. Boes stated that they were fine with them. He did have a question in regards to the size of the signage that would be allowed on the site. He wanted to know how to go about getting approval for a larger sign. B. Lazor explained that he would need to apply for a variance with the ZBA. J. Aslakson asked about the location of the new drive as well as its use. D. Boes explained the deceleration lane and that it would take people to the new parking lot to the rear of the property. They had just purchased some off campus apartments. They will be working on getting the students moved off the campus so they may convert the housing on the site into more classrooms. The Architect had worked with Mohammed from Engineering to come up with this plan. T. Harryman asked how they had determined the need for more parking. D. Boes stated that they have had a 19-20% increase in enrollment each year.

A motion to close the public hearing was made by L. Spataro, supported by T. Harryman and unanimously approved.

A motion that the amendment to the existing special use permit at 1903 Marquette (excluding the property at 2055 Marquette as it will need to go before ZBA) for a new entrance drive and expanded parking by Baker College be approved, based on compliance with the City's Master Land Use Plan and conditions set forth in the City of Muskegon Zoning Ordinance based on the following conditions: 1) All new and moved site lighting shall conform to the Zoning Ordinance standards. Lighting fixtures shall be a down-type having one hundred percent (100%) cutoff. The light rays may not be emitted by the installed fixture at an angle above the horizontal plane. The height of the light poles shall not exceed twenty-five (25) feet as measured from the average grade. 2) Trees shall be protected and labeled. Any tree that is not directly in the path of a construction activity shall be saved (including the trees in the islands as described in Area #2). 3) All signage shall meet the ordinance requirements. The entrance sign in area #1 shall not be more than 32 square feet. The sign at 2055 Marquette shall meet standard B-2 requirements. 4) A detailed landscaping plan shall be submitted addressing all concerns of staff as presented in the staff report. 5) If the applicant still wishes to pursue parking at 2055 Marquette, a variance from the Zoning Board of Appeals may be applied for. 6) Any fire hydrant relocated shall be approved by the local fire marshal. Hydrant spacing shall meet the requirements of the 2003 International Fire Code appendix C. 7) Deceleration lane needs to be looked at to see if it is necessary. Based on what data? If it is necessary, the City may need perpetual easements for

sidewalks. 8) Need an entrance sidewalk, curb cut, and ramp details. 9) New sidewalk must meet City standards. 10) All surface water must be retained on the site to the extent possible. 11) Check with the County if soil erosion permits are necessary, was made by J. Aslakson, supported by T. Michalski and unanimously approved.

Hearing; Case 2004-24: Request to rezone the property located at 407 Marquette Ave. from R-1, Single-Family Residential to B-1, Limited Business, by Ray Reasonover. B. Lazor presented the staff report. This is a case that was heard by the Planning Commission during the regular January meeting. Due to unforeseen circumstances, the City Commission has asked staff to restart the rezoning process with the Planning Commission. Minutes from the January meeting are provided at the end of this case for your reference. This request includes the property at the southeast corner of Marquette Ave. and Wood St. The property currently contains a small 'corner store' type of mini-mart and additional vacant space. There are two special use permits in place on this property – one for the mini-mart and a second for a youth recreational center, which has never materialized. The subject property is currently zoned R-1, Single-Family Residential. The Zoning Ordinance was amended several years ago to allow existing previously nonconforming commercial structures in residential districts to be used for various low-scale commercial uses. This language is how the special use permits on the subject property were approved. The intent of this language is to allow some practical use for these buildings which would not likely be either renovated or torn down for residential uses and would otherwise sit vacant. The language also allows small scale, low intensity uses, similar to those allowed in the B-1, Limited Business zoning district, in or near neighborhoods. This helps to promote the idea of 'neighborhood businesses'. When the language was included that allowed these commercial buildings to be used commercially in residential zones, several conditions were also included. One of these conditions is that certain types of uses are prohibited under this language, *"Prohibited uses: Activities specifically prohibited include repair or service of motor vehicles and other large equipment; **uses serving or selling alcohol**, manufacturing processes which would normally require industrial zoning; any activity which may become a nuisance due to noise, unsightliness or odor; and any activity which may adversely affect surrounding property."* When the Special Use Permit was approved for the mini-mart in August of 2001, one of the conditions of the permit reinforced the prohibition against selling alcohol on the site. At the time, the property owner stated that he had no intention of selling alcohol in the store. However, since that time the property has changed hands and the store has a new owner/operator. The current owner would like to sell alcohol in the store. As the sale of alcohol is prohibited on this site both by the ordinance language allowing the property to be re-used commercially and by the approved Special Use Permit for this property, the applicant is asking that the property be rezoned to a commercial designation. The prohibition against alcohol sales does not appear in the B-1 district language – it was added specifically to the special use permit language for commercial buildings in residential districts. If the property were to be rezoned to B-1 and the Special Use Permit were dissolved (since the use of the property as a store would be allowed in the B-1 district by right, the Special Use Permit would no longer be necessary), then the applicant would be free to seek a liquor license in order to sell alcohol on the property. The City owns several vacant parcels of property directly adjacent to the subject property. This corner is a somewhat busy one since Marquette Ave. and Wood St. each carry a heavier load of traffic than a minor residential street. To the south of the subject property is an existing church. Although this general area is entirely zoned for single-family residential, this particular block does not contain any existing homes. However, given the

recent level of increased interest in the Jackson Hill neighborhood for single-family building projects, there is a good likelihood that the City-owned parcels may be in demand in the near future for single-family residential purposes. The closest area to the subject property which is already currently zoned for commercial use is at the corner of Marquette Ave. and Getty St., where there is some B-1 zoning. There is not much commercial zoning existing within the Jackson Hill neighborhood. The subject property is located at probably the busiest corner in this neighborhood. If any commercial zoning were to be located in this neighborhood, the subject property would probably be the most practical spot for it. However, the zoning ordinance does permit small-scale commercial use on this property without it needing to be rezoned, and the special use permit language is even more restrictive than the B-1 district, which helps to further protect the surrounding neighborhood. The Future Land Use Map shows the subject property as "Single & Two-Family". The Master Land Use Plan states: It is the goal of the Master Plan to maintain the residential integrity of the sub-area, while setting aside small segments suitable for commercial and industrial uses in a highly compatible, non-threatening, fashion. Single-family homes are found throughout the sub-area including many new homes located in the Marquette neighborhood. They range from well to poorly maintained dwellings. Sub-Area 12 has the highest concentration of homes experiencing significant site deterioration. A variety of schools and churches are interspersed throughout and compliment the residential flavor of the area. The Master Plan recommends for this sub-area: Clustered commercial development should be confined to the US-31 and Getty Street intersections, consistent with similar development identified in Sub-Areas 3 and 4. Staff received an email on 5-31-04 from Cathy Simons of 455 Leonard St. A copy of it was provided to the commission members. She was opposed to the request. B-1 is intended as a 'neighborhood' commercial zoning designation, and only allows small scale, low intensity commercial uses. The square footage of most permitted uses in the B-1 district is limited to 2,500 square feet. If the Planning and City Commissions were inclined to approve a rezoning for this property to a commercial designation, staff would feel most comfortable with the B-1 district there. However, since the existing ordinance language and special use permit do allow small scale commercial uses (including the current use) at this site without a rezoning, staff would recommend denial of this request

L. Spataro asked if staff had the letters that were sent to the City Commission from individuals that were for and some were against this request. B. Lazor provided the commission members with the letters. T. Harryman asked if it was a different owner when it went before the City Commission. B. Lazor stated it was the same owner. R. Reasonover stated that he would be improving the lighting if needed and he would also supply security if it is needed. He gave the history of how he obtained the property through tax reversion. T. Michalski asked if he had a variety of items in the store. R. Reasonover stated named off some of the items they have, such as pop, chips, candy, etc. They have convenience store type items. S. Warmington stated that the applicant could answer his question if he wanted to. He stated that the applicant had been in business for about 7 months, and at the end of the month, he wanted to know if the applicant was showing a profit. R. Reasonover stated that he wasn't. S. Warmington asked about his intention for the sale of beer and wine. R. Reasonover stated that he only wanted to sell beer and wine. He didn't want to sell any packaged liquor. He wouldn't be allowed to sell any hard liquor because there is a church that is located within 500 ft. of the property. S. Warmington asked if the applicant felt that they needed to beer and wine license in order for the store to remain open. R. Reasonover stated that was how he felt. S. Warmington asked what the applicant's feeling would be if they can't sell beer and wine and the sales aren't what he had

opened, how long did the applicant feel he would survive to stay open. R. Reasonover stated that he wasn't sure. It may only be a year due to the taxes and insurance. T. Harryman had asked how many signatures were on the petition that had been submitted with the first request. P. Sartorius stated that there 6 and 1/3 pages of signatures that were in favor of the request. L. Spataro asked the applicant if he knew if the previous owner had been making a profit with the business. R. Reasonover stated that he didn't know. He had purchased the property through tax reversion. L. Spataro asked if he was aware of the zoning when he had purchased the property. R. Reasonover stated that he was.

J. Roberson stated that he was in favor of the request. He felt that this would give the owner a chance to expand his business. He would prefer to patronize businesses that are within his community. M. Reasonover stated that he runs the store with his father. He had named some of the items that they carry in the store. The store also sponsors a team in the community. They are working on fixing up the building. They have removed the graffiti off the building. They are going to paint and then proceed to working on the inside of it. D. McIntosh felt the request should be approved. B. Holmes of the Jackson Hill Neighborhood Association stated that the consensus of the neighborhood is that they don't want to see beer and wine sold in the neighborhood. They also felt that safety was a concern as well as littering. T. Michalski asked if she had been in the store. B. Holmes stated that she hadn't. B. Smith asked how many people attend the neighborhood association meeting. B. Holmes stated that there are about 7 people on the board and they speak to the people in the neighborhood. B. Smith asked if any of them have been in the store. B. Holmes stated she believed some of them have. T. Harryman asked if why some felt that store was already unsafe. B. Holmes stated it was due to the graffiti. R. Reasonover Jr. also helps his father with the store. He is in favor of the request. K. Martin stated that she had no problem with the owner making his business grow. She doesn't agree with allowing the sale of beer and wine on the property. She doesn't patronize the establishments in the neighborhood that currently sells the beer and wine because she feels that it isn't safe at the establishments. She likes the idea of having a store in the neighborhood. P. Sartorius explained what business could locate on the property if the rezoning was granted. The rezoning request is for this parcel only. K. Reasonover stated that the intentions for the building wasn't just for the sale of beer and wine. They would like to be able to bring more into the community. She had suggested opening a restaurant at the location also. They also sell some dollar items as well as laundry detergent. They usually close around 8 or 9 in the evenings depending on the flow of customers into the store. F. Williams stated that he frequents the store and he would like to be able to buy his beer and wine at this location instead of going elsewhere. D. Stewart stated that she has been in the store and she is in favor of the request. T. Michalski asked if they were able to find what they needed in the store. D. Stewart stated that she did. She stated that she went there looking for certain items and that the shelves weren't empty in the store. C. Shepherd stated that she represents some people from church and she is speaking on their behalf. She explained the City Commission process. She stated by changing the zoning, this would affect the neighborhood negatively. There are a lot of senior citizens living in the area. She was opposed to the request. D. McIntosh asked what kinds of businesses would be allowed under the proposed zoning. P. Sartorius read them from the zoning ordinance. L. Spataro added that special use permits have time limits for the hours of operation, where as, having the zoning changed, would allow for the store to open and close when they wanted to.

R. Reasonover stated that Bayview Towers used to cater to the senior citizens only, but now there are disabled people living there. M. Reasonover stated that the summer hours for their store are longer in the summer than in the winter. S. Walker stated that she has no problem with buying what they need even with beer and wine. The only problem that she could see would be crowd control. She would like to feel safe. M. Lyons stated that he likes the area to stay nice and quiet. He is opposed to the request and would like the property to remain as it is. L. Spataro stated that this store is allowed to operate under the special use permit. This specifically forbids the sale of alcohol. He asked why the ordinance reads this way for this type of situation. J. Aslakson stated that this had come up because of this property. They looked at some way to be able to keep existing commercial buildings in an R-1 zoning district. They looked at allowing them with tight controls. There was a great deal of concern, which would create liquor stores on every commercial corner store in a residential zoning district.

A motion to close the public hearing was made by J. Aslakson, supported by T. Harryman and unanimously approved.

J. Aslakson stated that he is trying to separate the liquor license issue. He felt that the current zoning should remain. He is not comfortable with having this property rezoned. T. Harryman stated that he could understand how people would like to be able to walk to a corner store to buy their beer. He is conflicted on this issue. T. Michalski stated that the neighborhood association presented their points. He brought up the Lacks convenience store. It was a family business. He had shopped there and doesn't think that beer and wine was an issue. He would prefer to see the property remain under the current zoning district. He also felt that this should remain residential with the possibility of looking at the residential zoning language and have it be allowed to sell beer and wine, but not liquor. This way, with it being allowed as a special use permit, then it may be reviewed on a case by case basis. He agreed that it is nice to be able to walk to a store in order to get the items that you need. He is opposed to rezoning this property. L. Spataro stated that there is the possibility of a compromise. He brought up other stores in residential neighborhoods and they are succeeding without the sale of beer and wine. He has patronized the store once since Mr. Reasonover owned it. He stated that the zoning would stay with the property. So, if Mr. Reasonover was to sell the property at a later date, then anything that would be allowed under the proposed zoning would be an allowed use for the property and some of the uses may not be suitable for the area. There would also be no controls over the hours of operations. He would be willing to revisit the SUP under the R-1 zoning to allow the sale of beer and wine if the language in the zoning ordinance is changed to allow for the sale of it. P. Sartorius stated that this isn't about whether or not beer and wine should be sold on the premises. It is about whether or not any business that could locate under the B-1 zoning district, would be a good use for this property.

A motion that the request the property at 407 Marquette Ave. as described in the public notice, from R-1, Single-Family Residential to B-1, Limited Business be recommended for denial to the City Commission pursuant to the City of Muskegon Zoning Ordinance, and the determination of lack of compliance with the intent of the City Master Land Use Plan and zoning district intent, was made by T. Johnson, supported by J. Aslakson and approved with S. Warmington and B. Smith voting nay.

A motion to have staff propose an R-1 zoning district language change in order to allow for the

sale of beer and wine under a special use permit with liquor still be prohibited, was made by T. Michalski, supported by T. Harryman and approved with T. Johnson voting nay.

S. Warmington left at 6:23 p.m.

Hearing; Case 2004-25: Staff initiated request vacate Broadmoor St. between Albert Ave and Wesley Avenue. B. Lazor stated that this case would need to be tabled at this time.

A motion that the vacation of Broadmoor Street between Albert Ave and Wesley Ave. be tabled, was made by J. Aslakson, supported by T. Johnson and unanimously approved.

OTHER

None.

There being no further business, the meeting adjourned at 6:26 p.m.

hmg
6/10/04